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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-seventh session

SUMMARY RECORD OF THE 1099th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 31 July 1995, at 10.30 a.m.

Chairman: Mr. GARVALOV

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The meeting was called to order at 10.45 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the Committee's forty-seventh session.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CERD/C/284)

ORGANIZATIONAL AND OTHER MATTERS (item 2 of the provisional agenda)

2. The CHAIRMAN invited the Committee to consider the provisional agenda and annotations (CERD/C/284) and the proposed programme of work for the session.

3. Subsequent to the preparation of the proposed timetable of work, a number of requests had been received from States parties for deferral of consideration of reports. The Government of the Russian Federation had requested deferral of the submission of its twelfth and thirteenth periodic reports, which would be issued in September/October 1995 for consideration by the Committee at its spring 1996 session. The Former Yugoslav Republic of Macedonia had requested deferral of consideration of its report until early 1996. The Government of India had requested deferral of consideration of its periodic reports until 1996. The Governments of Cambodia and Panama had also requested deferral of consideration of their reports.

4. He solicited the views of the Committee on how to proceed with adoption of the provisional agenda and the proposed programme of work in the light of those requests.

5. Mr. BANTON said that the Committee had never previously acceded to a request for deferral sine die. Any decision to accede to such a request should be conditional on receipt of reports by a given date and should be based on a rule that would serve as a precedent for similar requests in the future.

6. Mr. ABOUL-NASR said he understood that the communications from the States parties were to be viewed not as requests that the Committee could either accept or reject, but rather as notification of inability to submit their reports by the appointed time. The Committee could do little more than express regret at the delay and say that it looked forward to receiving the report in time for consideration at the forthcoming session. There were other States whose reports had been overdue for years and which had not even had the courtesy to notify the Committee.

7. Mr. FERRERO COSTA suggested that the Committee should take note of the communications received from the States parties, accede to the requests contained therein and inform the Governments concerned of its intention to consider their reports at its forty-eighth session. It had been the Committee's practice to accede to requests for deferral except in the case of urgent procedures or where a State party failed repeatedly to comply with its obligations.

8. Mr. SHERIFIS said that, in addition to taking note of the communications, the Committee should express regret that the States parties had failed to comply with their obligations and express the hope that they would do so without further delay. The proposed programme of work would have to be reorganized in such a way as to use the additional time available to best effect.

9. Mr. van BOVEN noted that the reports of a large number of States parties were long overdue and there was little that the Committee could do about it. However, at the previous session special concern had been expressed regarding Israel, Papua New Guinea, Burundi, the Former Yugoslav Republic of Macedonia, Algeria, the Russian Federation, Guatemala and Mexico. In the meantime, Mexico had submitted a report, the Former Yugoslav Republic of Macedonia and the Russian Federation had had the courtesy to send notifications, but the others had, to his knowledge, remained silent. The Committee's practice when it had identified something as a matter of concern was either to request a special report or to ask the State party to expedite its pending report and to include information on the matter of special concern. He feared that the effectiveness of the Committee's supervisory role was at stake when States parties failed to respond to such requests.

10. Mr. YUTZIS said that the annual report to be submitted to the United Nations General Assembly would reflect the decisions taken by the Committee at the current session. It was therefore necessary to examine in greater depth the question when and in which cases the Committee could continue to follow the procedure it had developed in recent years for ensuring implementation of the Convention by States parties that had or had not submitted reports relating to preventive and early-warning measures. He urged the Committee to take the opportunity to adopt decisions regarding the treatment of cases that seemed to deserve special attention because of the possible seriousness of the underlying situations. The substantive issue of prevention was of the greatest importance.

11. Mr. BANTON considered that the Committee should not take its standards from the worst performers. It had decided to consider the implementation of the Convention in certain States parties at that session and had invited those States to send representatives. It should either stand by its original decision or concede that the arguments put forward were sufficiently convincing to justify deferral. In that connection, he asked how much notice the States parties concerned had been given of the Committee's decision to consider their compliance with the Convention. The letter from India referred to a note from the Centre for Human Rights dated 9 June 1995. It should surely have been possible to notify the Government at the end of March 1995.

12. The CHAIRMAN noted that none of the States parties from which further information or urgent reports had been requested had responded positively to the request. The Committee would have to decide how to react to such neglect of obligations under the Convention.

13. If preventive action and early-warning procedures were the Committee's main objectives, he suggested that some time should be allotted in the programme of work to an extremely serious case of "ethnic cleansing" that was occurring even while the Committee met.

14. Mr. van BOVEN said that the Committee's request for certain States parties to submit specific information at the present session had clearly caused problems. He stressed the need for the Committee to react to such a situation, not least in order to safeguard its credibility with the international community. In the case of the Russian Federation and Algeria, the views of the Government were essential in order to determine whether certain situations fell within the scope of the Convention and any action was necessary. He therefore proposed that the permanent missions of all the countries concerned should be contacted that very day, either by fax or telephone, to ask when the information would be available. Mention should also be made of the Committee's concern about such matters and the need for the States parties' greater cooperation in future.

15. Mr. WOLFRUM, referring to Mr. Banton's comments, pointed out that there had been no decision during the forty-sixth session to the effect that such matters must be discussed during the present session; the Russian Federation had merely been requested to expedite its report. He endorsed Mr. van Boven's proposal: it was important to know when the information would be available before deciding what action should be taken. Regrettably the Committee was now paying the price for its decision taken during the previous session which had given rise to some confusion between information requested under urgent procedures and other reports.

16. Mr. SONG Shuhua, referring to Mr. van Boven's proposal, further suggested that when contacting the permanent missions, reference should be made to the Committee's general recommendation on reports adopted at its twenty-fifth session in 1982.

17. Mr. SHAHI suggested that the Governments of the Russian Federation and India should be informed that the Committee had taken note of their requests and consideration of their reports would be deferred until the forty-ninth session. However, the case of the Former Yugoslav Republic of Macedonia warranted a more urgent response by the Committee.

18. Mr. FERRERO COSTA observed that the States parties under consideration fell into two categories. On the one hand, India, Panama and Cambodia were not subject to urgent procedures and so the Committee should merely dispatch a letter reminding them of their reporting obligations under the Convention and expressing the hope that their reports would be submitted in time to be considered at the following session. However, the Russian Federation and the Former Yugoslav Republic of Macedonia were subject to urgent procedures and must be urged to provide without further delay at least the specific information on matters of special concern requested by the Committee. That approach was both fair and in line with the Committee's previous policy in such a situation.

19. Mr. ABOUL-NASR suggested, in order to facilitate the proceedings, that the provisional agenda contained in document CERD/C/284 should be adopted without further ado. Thereafter the secretariat should be requested to provide a new programme of work taking into account States parties' requests to defer consideration of their reports until the following session. He was somewhat confused, since it was not clear from the annotations to the provisional agenda exactly which State party reports were to be considered under article 9 of the Convention and which ones under the Committee's urgent procedures.

20. Mr. YUTZIS said that the Committee must first of all decide what would be dealt with at the current session and at the following session before entering into any substantive discussion. All he cases before it were different. Furthermore, as far as he recollected, the Committee had decided to discuss the situation in Cambodia even if the report was not available at the present session. Relevant information from various sources had already been provided at the forty-sixth session on a situation which, in his view, required the Committee's urgent attention.

21. The CHAIRMAN reminded members that, once adopted, the programme of work could subsequently be amended as necessary. Furthermore, it would be most unfortunate if the Committee was seen by the international community to fail to respond during the present session to the recent worsening of the situation in one of the States parties subject to its early-warning and urgent procedures. He therefore urged the Committee to adopt the programme of work on the understanding that the Bureau would suggest, as soon as possible, what action should be taken vis-à-vis all the States parties whose reports were due to be considered at the current session but had not been submitted in time. He drew attention to a number of communications received relating to other matters. They would be circulated to members and if possible taken up later in the day.

22. Mr. RECHETOV said that he more than anyone else would have welcomed the opportunity to meet the delegation of the Russian Federation and consider its report. However, in view of recent events, including the visit of the representative of the United Nations High Commissioner for Refugees to Chechnya, as well as the activities of the Organization for Security and Cooperation in Europe in that area, it could not be claimed that the Russian Federation was failing to provide the international community with information on the situation. Moreover, to his knowledge, the Russian Federation, which had recently submitted its periodic report to the Human Rights Committee, had not refused to disclose certain information. He hoped that the Committee would find time to discuss the very important issue of reports that had not been submitted on time.

23. Understandably, public attention tended to focus on the more tragic events, such as the current situation in Bosnia and Herzegovina and Chechnya. However, the Committee had other cases to deal with for which it had requested specific information under its urgent procedures. There were certain States parties whose reports were years overdue, which seemed totally unaware of

their obligations under the Convention and from which the Committee had received no notification. So although the question of the Russian Federation was of undeniable importance, the Committee must not be seen to focus too much attention on such issues to the detriment of its other important duties in the field of international human rights.

24. The CHAIRMAN said he would take it that the Committee wished to adopt the provisional agenda and annotations (document CERD/C/284), as well as the programme of work on the understanding which he had mentioned in his earlier statement.

25. It was so decided.

26. Mr. ABOUL-NASR congratulated the secretariat on its reorganization of the document files provided for Committee members. However, he was at a loss to understand why a report by the United States Department of State should have been included in the documentation distributed by the secretariat to Committee members and wondered whether there had been a specific request to that effect from the Member State concerned. The report in question was not impartial but highly political. He noted that, if the United States wished to enter complaints of human rights abuses against other Member States, it could do so under the relevant article of the Convention. While he had no objection to members of the Committee using such reports for purposes of information, he must question the practice of distributing them as documents to the Committee at large. He felt that it accorded a particular and newly-participating Member State a status different from that enjoyed by other States parties to the Convention.

27. He also questioned the secretariat's sending of information received from NGOs to the Special Rapporteur. If such information was to be distributed to a particular member of the Committee, it should also be sent to the rest for study and possible comment. He was not inviting a debate on the points he had made but he hoped that his views would be reflected in the record.

28. The CHAIRMAN said that all the members of the Committee endorsed the appreciation expressed for the efforts of the secretariat. On Mr. Aboul-Nasr's second point, he noted that the report referred to had not been listed as an official document but had been distributed informally. The third point he would discuss with the secretariat. He agreed that it was important that the information and materials received should go to the other members of the Committee as well as to the Special Rapporteur.

STATEMENT BY THE CHAIRMAN ON THE MEETING OF THE SECRETARY-GENERAL OF THE UNITED NATIONS WITH THE CHAIRPERSONS OF THE HUMAN RIGHTS TREATY BODIES

29. The CHAIRMAN said that, at the invitation of the Secretary-General of the United Nations, the chairpersons of the treaty bodies had met with him at United Nations Headquarters on 19 June 1995 for consultations. The chairpersons had previously met informally with the United Nations High Commissioner for Human Rights to discuss how the consultations should be approached and conducted, and how their views and suggestions could best be presented.

30. The Secretary-General had been accompanied by a number of his advisers. Also present had been the United Nations High Commissioner for Human Rights and Mrs. Helga Klein, Director of the International Instruments Branch of the Centre for Human Rights in Geneva. The chairpersons present had been the Chairman of the Human Rights Committee, the Rapporteur of the Committee on Economic, Social and Cultural Rights, the Chairman of the Committee on the Rights of the Child, the Chairman of the Committee on the Elimination of Discrimination against Women, the Chairman of the Committee against Torture, and he himself as Chairman of the Committee on the Elimination of Racial Discrimination and also as Chairperson of the Fifth Meeting of Persons Chairing the Human Rights Treaty Bodies.

31. As agreed in advance, he had introduced the chairpersons' common views and positions and their joint suggestions. The main points had been: first, that the treaty bodies stood firmly behind the decisions of the Vienna World Conference on Human Rights and, in particular, its call for human rights to become the priority objective of the United Nations. The treaty bodies also firmly backed the positions and suggestions of the Secretary-General contained in his Agenda for Peace and in the follow-up document, particularly with regard to preventive action. They believed that the treaty system was equipped to serve as one of the best means of prevention and early warning. The treaty bodies were impartial, maintained a constructive dialogue with States parties, analysed in depth those States' periodic reports, and were in possession of valuable and reliable information. Last but not least, they acted collectively. Within their specific mandates, all had adopted their own procedures in the fields of preventive diplomacy and early warning. Some had already taken specific action, such as the Committee on the Elimination of Racial Discrimination's own "good offices" mission to Kosovo in the Former Republic of Yugoslavia (Serbia and Montenegro).

32. The treaty system, and particularly the treaty bodies, could thus help the Secretary-General in his preventive diplomacy. Effective use could be made of them in two areas: the gathering and analysis of specific information, enabling the Secretary-General by acting upon such information to resort to early warning; and suggesting urgent procedures for preventive action. The members of the treaty bodies were all highly qualified experts in their respective fields and stood ready to serve the Secretary-General if he deemed it necessary to call upon them. While they would, if so mandated, be acting individually, they would carry with them the collective wisdom and knowledge of their respective bodies, giving them a clear advantage over individual one-man missions.

33. Problems common to the treaty system included inadequate and delayed reporting, less than satisfactory compliance on the part of some States parties, unwillingness to recognize international problems, lack of priority for human rights in national legislation, and so on. The treaty bodies were in favour of much more effective cooperation among all the human rights bodies within the United Nations system. Their legitimate and established role and potentialities should be recognized. They would like to see permanent contact established with the Secretary-General, enabling them to apprise him, through the United Nations Commissioner on Human Rights, of their views on situations which they deemed important. Among the concrete suggestions made by the Fifth Meeting of Chairpersons were that the Committee

on the Elimination of Discrimination against Women should be relocated to Geneva and should be serviced by the Centre for Human Rights; that the Centre's International Instruments Branch should be strengthened financially and given more staff, as should the Office of the United Nations High Commissioner for Human Rights; and that, as recommended by the Chairpersons in 1988 and frequently reiterated, a computerized database should be established for the treaty system. It had also been recommended that the Secretary-General should establish a special group charged specifically with analysing the reports of the treaty bodies, with a view to extracting specific suggestions and recommendations, as well as specific information, about cases which those bodies believed fell into the category of cases requiring urgent action and preventive diplomacy. Lastly, the meeting of chairpersons with the Secretary-General should be made a regular practice. The chairpersons of the individual committees had then made short statements confined to the specific activities of their respective committees.

34. The Secretary-General had expressed his pleasure at the meeting and its outcome and had pledged to work to enhance the prestige of the treaty bodies, to improve cooperation among human rights bodies within the United Nations system, and to hold such meetings on a regular basis. He had agreed completely with the analysis of the problems of the post-cold war era. He had commented that, although the Vienna Conference and he himself had concluded that human rights should be the priority objective of the United Nations, the Member States had not yet decided what use should be made of the United Nations in that field or to provide the necessary support. He believed more time would be needed for that. He had, however, been explicit in encouraging the treaty bodies to continue their own "quiet diplomacy", which could be effective, and to make their own moral assessments. He had thanked the treaty bodies for their efforts and achievements and said that he would continue to appeal to those States which had not yet ratified the most important instruments to do so, and to encourage States parties to improve their compliance.

35. Turning to the overall situation of the United Nations, the Secretary-General had said that the Organization was in the process of working out a comprehensive approach to peace-keeping which would take into account not only military but also human-rights and humanitarian aspects. He had also said that the United Nations was experiencing its worst-ever financial crisis, standing almost on the brink of bankruptcy. He had written to the eight Member States currently meeting in Halifax to ask for their help in solving the problem. He was encouraged that the Heads of State and Government meeting there had accorded special attention to human rights and preventive diplomacy. He intended to use the fiftieth anniversary of the United Nations to discuss the financial crisis with the leaders of Member States, as well as the need for a new image for the world organization at the turn of the century and present and future challenges.

36. After the meeting with the Secretary-General, the chairpersons had met Mrs. Helga Klein, Director of the International Instruments Branch, and worked out an aide-mémoire on the meeting, which had been distributed to the members of the Committee.

37. His own view on the meeting with the Secretary-General was that, apart from being the first such meeting ever held, it had been important in providing an opportunity to present the treaty bodies' common problems to the Secretary-General, and to convince him of their unique ability to employ their own "early-warning and urgent procedures" with respect to cases which they believed demanded such attention, and also to engage in preventive diplomacy. The Secretary-General had had an opportunity to acquaint himself at first hand with matters of principle presented to him by the treaty bodies, and he would undoubtedly use the prestige of his office to work with, and enhance the role of, the treaty bodies and the treaty system. A direct link had been established between the Secretary-General and the treaty bodies, through the United Nations High Commissioner for Human Rights, and the institutionalization of such meetings would give the treaty bodies a continuing opportunity to bring matters of importance directly to the Secretary-General's attention. They now had the Secretary-General's acknowledgement and his encouragement to continue their "quiet diplomacy" and to help the United Nations within their specific mandates.

38. In his own capacity as Chairperson of the Fifth Meeting of Persons Chairing Treaty Bodies, he thanked the United Nations High Commissioner for Human Rights and the Director of the International Instruments Branch for helping to organize the meeting with the Secretary-General, for preparing the groundwork, and for their valuable suggestions for presenting the case to the Secretary-General and summarizing the outcome of the meeting. He was sure that the members of the Committee would join him in that expression of gratitude.

39. Mr. VALENCIA RODRIGUEZ congratulated the Chairman, as Chairman of the Fifth Meeting of Persons Chairing Treaty Bodies, and the other Chairpersons, on the June meeting with the Secretary-General. In meeting for the first time to exchange views and harmonize their work, the Secretary-General and the treaty bodies had taken a very important step. He noted from the report just given by the Chairman that a number of important specific suggestions had been made, in particular that such meetings should continue on a regular basis. There could be no doubt that the Committee on the Elimination of Racial Discrimination would benefit from such meetings, particularly with respect to the emphasis on preventive diplomacy and urgent procedures. A number of the cases currently before the Committee suggested that such activity needed to be expanded. One aim of the meeting with the Secretary-General had been to emphasize the joint task of the treaty bodies and the need for duplication to be avoided and their activities to be coordinated with those proposed elsewhere for achieving the purposes enshrined in the Vienna Declaration.

40. Mr. van BOVEN, reverting to organizational matters, congratulated the secretariat on the documentation before the Committee. He noted, however, that information of one particular type was still lacking and hoped that the Committee could receive it early in the current session. The document in the basic reference file on declarations, reservations and withdrawals of States parties (CERD/C/60/Rev.2) had last been brought up to date in 1993. It would be useful to the Committee to know whether other States had ratified the Convention since then, what States had made declarations under article 14 of the Convention, accepting the right of individual petition, and what States, if any, had withdrawn their reservations. He noted in that connection that

the Vienna Conference had expressed concern about the far-reaching reservations made by a number of States parties. The issue of amending the provisions of the Convention regarding the financing of the Committee had been discussed at recent sessions and a number of States had accepted the need for such an amendment. It would be useful for the Committee to be brought up to date regarding any other formal notifications of acceptance which had reached the secretariat. It would also be helpful in the dialogue with States parties.

41. He associated himself with the views expressed by Mr. Valencia Rodriguez on the Chairman's oral report. He too had found it extremely helpful and he trusted that it would be fully reflected in the summary record of the meeting.

42. Mrs. KLEIN (Representative of the Secretary-General) said that the secretariat would try to update the information in the file before the Committee and referred members to the last page, where they would find a list of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination as at 20 July 1995 and of States parties that had made a declaration under article 14 of the Convention.

43. Mr. WOLFRUM said that the meeting with the Secretary-General was a step in the right direction and should become a regular feature of the Committee's work. Similarly, joint meetings with other human rights treaty bodies and their chairpersons would serve to explore areas where their work overlapped. The chairpersons should consider whether it would be possible to issue joint general recommendations.

44. It was clear from the list of new States parties to the Convention that not all successor States had ratified the Convention. The Committee should take measures to encourage them to rectify the situation.

45. The CHAIRMAN said that the Committee would undoubtedly find time during the session to consider that matter.

46. Mr. DIACONU said he agreed with Mr. Wolfrum that efforts to improve coordination between human rights treaty bodies should be stepped up in order to avoid duplication of their work. The work of the Committee was being hindered by the volume of documentation that was presented to it, not all of which had any bearing on its mandate. Much of the information was useful only as background material and should therefore be placed in the Anti-Racism Information Service (ARIS) files, where it could be consulted if necessary.

47. The provisional agenda and annotations (CERD/C/284) would need to be revised because the decisions taken by the Committee at its previous session covered periodic reports, not "urgent reports" as stated in paragraph 3.

48. Mr. RECHETOV said that relevant information from a variety of sources was welcome. However, the volume of information reaching the Committee was increasing steadily, was often unrelated to racial discrimination and was therefore slowing down the Committee's work. The secretariat should therefore try to ensure that only relevant information was provided so that the Committee could concentrate on matters of direct concern to it.

49. Mr. WOLFRUM, supported by Mr. FERRERO COSTA, said that the Committee should receive any information available as a matter of course, whether it was related to racial discrimination or not. The pre-selection of what the Committee could or could not receive was not advisable.

50. Mr. ABOUL-NASR said that the note by the Secretary-General contained in document CERD/C/269 provided very little substantive information on what was essentially an important and often neglected article of the Convention. Furthermore, documentation relating to article 15 was not forthcoming from the secretariat, NGOs or even the Secretary-General; that was preventing the Committee from carrying out its work efficiently.

51. The CHAIRMAN said that the bureau would consider that point, which was perfectly valid.

The meeting rose at 12.45 p.m.